

Do I Need a Will If I Have a Trust in Florida? Here's What Most People Get Wrong



You went through the effort of setting up a revocable living trust. You've named your beneficiaries. You've transferred your assets. So naturally, someone asks: *"Do I still need a will?"* And honestly? It's a fair question — one that trips up a surprising number of Florida residents every year.

Here's the short answer: yes, in most cases you still need a will even if you have a trust. But the why matters just as much as the what, and the details can mean the difference between a smooth estate and a legal mess for your family.

Let's break it down — plainly, practically, and without the usual legalese. For a deeper dive, you can read [the honest answer on whether you need a will with a trust in Florida](#) directly on the Lumsden Law website.

The Trust Does a Lot — But Not Everything

A revocable living trust is genuinely one of the most powerful estate planning tools available in Florida. It lets you avoid probate, maintain privacy, and transfer assets to loved ones without court involvement. For high-asset estates or families with complex dynamics, it's often the centerpiece of a solid plan.

But here's the thing — a trust only controls what's in it.

If you bought a car last month and forgot to retitle it into the trust, that car isn't covered. If you opened a new checking account and never funded the trust with it, that account isn't covered either. Life moves fast. Trusts don't update themselves.

What a Trust Cannot Do

- Name a guardian for minor children
- Control assets that were never transferred into the trust
- Handle debts, funeral wishes, or final instructions
- Appoint a personal representative (executor) for your estate

This is exactly where a will — specifically what’s called a pour-over will in Florida estate planning — becomes essential.

What Is a Pour-Over Will and Why Does It Matter?

A pour-over will is the sidekick to your trust. Think of it as a safety net: any assets that weren’t transferred into your trust during your lifetime get “poured over” into it upon your death. It’s not glamorous, but it’s critical.

Without a pour-over will, those stray assets — the bank account you forgot, the small investment you opened last spring — don’t automatically go to your trust. They enter Florida’s intestate succession process instead, which means the state decides who gets what. That’s rarely what anyone intended.

Quick Stat: According to a 2023 Caring.com survey, only 34% of American adults have an up-to-date estate plan. Among those with trusts, many don’t realize untitled assets still go through probate — defeating the purpose of the trust entirely.

Florida-Specific Rules You Need to Know

Florida has its own set of rules when it comes to wills and trusts, and they’re not always intuitive. Under Florida Statute § 732.601, pour-over wills are fully recognized — but they still must meet the state’s formal execution requirements to be valid.

That means:

- The will must be signed in front of two witnesses
- Witnesses cannot be beneficiaries of the will
- A notary is required for a self-proving affidavit (highly recommended)

Florida also does not recognize holographic (handwritten) wills, which is a common misconception. If you’ve scribbled out your wishes in a notebook somewhere, those instructions carry no legal weight in this state.

Understanding these nuances is why working with a Florida-licensed estate planning attorney matters. You can learn more about [whether a will is truly necessary alongside your Florida trust](#) and what your specific situation may require.

FAQ: Will vs. Trust in Florida

Q: If everything is in my trust, do I still need a will?

Technically, if every single asset you own has been properly titled in your trust, the practical need for a will decreases. But “technically” is doing a lot of heavy lifting in that sentence. Most people accumulate new assets — and most people forget to update their trust. A pour-over will covers that gap.

Q: Does a trust replace a will in Florida?

No. A trust and a will serve different functions. A trust manages and distributes assets during your lifetime and after death. A will handles matters the trust can't — like naming guardians for children, directing untitled assets, and expressing final wishes. They work together, not in place of each other.

Q: What happens if I die without a will in Florida?

Florida's intestate succession laws kick in. The state uses a formula to distribute your assets — prioritizing spouses, then children, then other relatives. This process bypasses your personal wishes entirely and often requires court involvement, even if you had a trust.

Q: Can my trust become irrevocable at death?

Yes — many revocable living trusts are designed to become irrevocable upon the grantor's death. At that point, the trustee's role is to administer and distribute assets according to the trust's terms. This is a feature, not a bug: it protects assets and ensures your wishes are carried out without court oversight.

The Guardian Question: A Will Is Non-Negotiable for Parents

If you have minor children, stop reading for a second and really take this in: a trust cannot name a guardian. Only a will can do that.

If both parents die without a will, a Florida court will appoint a guardian — and while judges try to act in the child's best interest, they don't know your family. They don't know your values, your relationships, or your concerns. A will gives you that voice.

This alone is reason enough for parents with trusts to also have a properly executed will. It's not redundancy — it's protection.

The Bottom Line

Having a revocable living trust is a smart move. But thinking it replaces a will? That's where Florida families run into trouble.

A complete estate plan typically includes both — the trust as the primary vehicle for asset distribution, and the will as the essential backup that covers everything else. Together, they're far more powerful than either one alone.

If you're unsure where your current plan stands, it's worth a conversation with an estate planning attorney who knows Florida law. In the meantime, [read more about navigating the will-and-trust question in Florida](#) for a full breakdown of your options.

Estate planning isn't about paperwork. It's about making sure the people you love are taken care of — without confusion, without court battles, and without leaving anything to chance.